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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/562,172	12/21/2005	Harald Koellner	40149/01001	1304
30636 7590 08/17/2009 FAY KAPLUN & MARCIN, LLP 150 BROADWAY, SUITE 702 NEW YORK, NY 10038				
EXAMINER STRIMBU, GREGORY J				
ART UNIT		PAPER NUMBER		
3634				
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08/17/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/562,172

Applicant(s)

KOELLNER ET AL.

Examiner

Gregory J. Strimbu

Art Unit

3634

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 May 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2 and 4-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2 and 4-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 December 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/S508)
Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Drawings

The drawing correction filed May 4, 2009 has been approved. The drawings, however, are objected to because they fail to comply with 37 CFR 1.84(p)(4) since reference characters "13" and "14" have both been used to designate a door inner panel in figures 2b and 3b respectively. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

The drawings are objected to because the applicant has failed to use the proper cross sectional shading in figure 3a. See MPEP 608.02. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief

description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the plurality of receivers (claim 15) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered. It should be noted that the drawing correction of May 4, 2009 only shows one receiver 15. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either

"Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

The amendment filed May 4, 2009 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: the receivers 15" as shown in figure 2a.

Applicant is required to cancel the new matter in the reply to this Office Action.

Specification

The disclosure is objected to because of the following informalities: it appears that "6" on line 4 of the second paragraph 32 should be changed to --6'-- to avoid confusion. Finally, the applicant should avoid referring to the same element of the invention with different language. For example, the applicant should avoid referring to element 9 as a peripheral seal on line 3 of paragraph 33 and as locking lugs on line 8 of paragraph 33.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

Claims 1, 2 and 4-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Recitations such as "contacting an edge of the opening" on line 4 of claim 1 render the claims indefinite because it is unclear if the applicant is claiming the subcombination of the module or the combination of the module and the opening of the door. The preamble implies the subcombination while the positive recitation of the opening on line 4 of claim 1 implies the combination. Also see line 2 of claim 12 and lines 5-6 of claim 16 which suffer from the same indefiniteness. Recitations such as "a door inner trim" on line 8 of claim 16 render the claims indefinite because it is unclear if the applicant is referring to the door inner trim set forth above or is attempting to set forth another inner trim in addition to the one set forth above. Also see line 2 of claims 17 and 18 which suffer from the same indefiniteness.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 4-7, 12 and 15-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Koa et al. (US 6412852). Koa et al. discloses a module for covering an

opening (not numbered, but shown in figure 4) in a motor vehicle door 10 and for supporting a door inner trim, comprising: a base body 35 including a base 42 and at least one bracket 41 movable with respect to the base, the bracket 41 including a supporting surface 37 for supporting an edge of the opening, the bracket including at least one fixation point 39 for fastening to a door trim 20;

regarding claim 2, the module includes a sheet 35 of one of a metal and a plastic (see column 5, lines 41-43);

regarding claim 4, a peripheral seal 45 limiting the passage of moisture through the opening;

regarding claim 5, the bracket 41 is integrally formed on the base body 42;

regarding claim 6, the bracket 41 is coupled to the base by a film hinge 40;

regarding claim 7, the bracket 41 includes a clipping opening 39 sized to receive and clip therein a corresponding part 25 of the inner trim 20;

regarding claim 11, the bracket is fastened to the base by at least one spring element 40;

regarding claim 12, a plurality of fixation elements 25 fastening the module to the edge of the opening;

regarding claim 15, a plurality of receivers 43, 53 for one of a window-lifting mechanism and a loudspeaker.

Claims 1, 2, 5-9 and 11-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Lau et al. (US 5048234). Lau et al. discloses a module 24 for covering

an opening 22 in a motor vehicle door and for supporting a door inner trim, comprising: a base body 24 including a base and at least one bracket 52 movable with respect to the base, the bracket including a supporting surface (not numbered, but shown in figure 4) contacting an edge of the opening, the bracket including at least one fixation point (not numbered, but comprising the hole through which the bolt 66 extends) for fastening to the door trim 70;

regarding claim 2, the door module includes a sheet of one of a metal and a plastic;

regarding claim 5, the bracket 52 is integrally formed on the base body 24;

regarding claim 6, the bracket 52 is coupled to the base by a film hinge (not numbered, but shown in figure 4);

regarding claim 7, the bracket 52 is a fixation element including a clipping opening (not numbered, but comprising the opening through which the bolt 66 extends) sized to receive and clip therein a corresponding part of the inner trim;

regarding claims 8, 9 and 12, the at least one bracket 52 comprises 3 to 20 brackets 54, 56, 58, 60;

regarding claim 11, the bracket 52 is fastened to the base 24 by at least one spring element (not numbered, but shown in figure 4);

regarding claim 13, an elasticity of the bracket 52 relative to the base 24 is such that the base is movable with respect to a support edge of the bracket in a direction substantially perpendicular to a plane of the door by up to 1 mm while maintaining pressure between the support edge and the edge of the opening as shown in figure 5;

regarding claim 14, an elasticity of the bracket relative to the base is such that the base is movable with respect to a support edge of the bracket in a direction substantially perpendicular to a plane of the door by 2-6 mm while maintaining pressure between the support edge and the edge of the opening as shown in figure 5;

regarding claim 15, a plurality of receivers (not numbered, but shown in figure 1) for one of a window-lifting mechanism 32, 34, 36, 38 and a loudspeaker.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lau et al. as applied to claims 1, 2, 5-9 and 11-14, as set forth above. Lau et al. is silent concerning 8 to 12 brackets.

However, one of ordinary skill in the art is expected to routinely experiment with parameters so as to ascertain the optimum or workable ranges for a particular use. Accordingly, it would have been no more than an obvious matter of engineering design choice, as determined through routine experimentation and optimization, for one of ordinary skill to provide Lau et al. with 8-12 brackets to increase the amount of force needed to displace the base during a collision.

Response to Arguments

Applicant's arguments filed May 5, 2009 have been fully considered but they are not persuasive.

The applicant argues that Lau et al. fails to anticipate the applicant's claimed invention because Lau et al. fails to disclose that the module is for supporting a door inner trim and that the fixation point is for fastening to the door inner trim. These arguments are not persuasive because the claim language only requires that Lau et al. disclose the ability to support a door inner trim and a fixation point for fastening the door inner trim. Clearly, Lau et al. discloses that the inner trim 14 can be supported by the module at the fastening point which is defined by the aperture for the fastener 66 as shown in figure 4. The applicant's comments concerning maintaining a constant gap between the door trim and the door inner panel is not persuasive because it is not supported by the claim language.

The applicant's comments concerning claims 4 and 16-18 are moot in view of the new grounds of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory J. Strimbu whose telephone number is 571-272-6836. The examiner can normally be reached on Monday through Friday 8:00 to 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Katherine Mitchell can be reached on 571-272-7069. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Gregory J. Strimbu/
Primary Examiner, Art Unit 3634